

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|-----------------------|
| IN RE TRICOR DIRECT PURCHASER ANTITRUST LITIGATION |) | C.A. No. 05-340 (KAJ) |
| |) | |
| |) | |
| THIS DOCUMENT RELATES TO: |) | (consolidated) |
| |) | |
| ALL ACTIONS |) | |
| |) | |
| |) | |
| IN RE TRICOR INDIRECT PURCHASER ANTITRUST LITIGATION |) | C.A. No. 05-360 (KAJ) |
| |) | |
| |) | |
| THIS DOCUMENT RELATES TO: |) | (consolidated) |
| |) | |
| ALL ACTIONS |) | |
| |) | |
| |) | |

JOINT STATUS REPORT

Pursuant to this Court’s Scheduling Order dated October 27, 2005 (the “Scheduling Order”), Coordinated Direct Purchaser Plaintiffs, Indirect Purchaser Class Plaintiffs, and Indirect Purchaser Plaintiff Pacificare Health Systems, Inc. (“Pacificare”), (collectively “Plaintiffs”), and Defendants Abbott Laboratories (“Abbott”), Fournier Industrie et Sante, and Laboratories Fournier (“Fournier”) (collectively, “Defendants”), by and through their counsel, hereby submit this Joint Status Report.

A. Discovery

At this time, all parties have actively begun discovery. On March 2, 2006, the Court entered a Protective Order Governing Confidential Information. All parties served requests

for production of documents and/or interrogatories, the majority of which have been completed. The status of ongoing discovery is detailed below:

1. Coordinated Direct Purchaser Plaintiffs and Coordinated Indirect Purchaser Plaintiffs served responses and objections to Defendants' document requests and have produced documents pursuant to Defendants' requests. Pacificare recently became aware that it has additional documents responsive to Defendants' requests which relate to reimbursements Pacificare made for Tricor. On July 19, 2006, Pacificare notified Defendants of these additional documents, which are in the process of being produced. The remaining plaintiffs have purportedly produced all of their documents responsive to the document requests.

2. Defendant Abbott served responses and objections to Coordinated Direct Purchaser Plaintiffs and Coordinated Indirect Purchaser Plaintiffs' document requests and has purportedly produced all documents responsive to those requests. Defendant Fournier served responses and objections to Coordinated Direct Purchaser Plaintiffs and Coordinated Indirect Purchaser Plaintiffs' document requests and has purportedly produced all documents responsive to those requests.

3. On May 26, 2006, Defendants served their First Set of Requests for the Production of Documents and Things on Plaintiff American Sales Company. Plaintiff American Sales Company responded to Defendants' requests and has produced documents pursuant to Defendants' requests.

4. On June 27, 2006, Defendants served their Second Set of Requests for the Production of Documents and Things on Plaintiff Walgreens and Plaintiff CVS. Plaintiff Walgreens and Plaintiff CVS responded to Defendants' second requests on July 27, 2006.

5. On July 26, 2006, Coordinated Direct Purchaser Plaintiffs served their Second Set of Interrogatories and Second Set of Document Requests on Defendant Abbott and on Defendant Fournier. Responses to these requests are not yet due.

6. Deposition discovery has begun, including the depositions of representatives/employees of the Coordinated Direct Purchaser Plaintiffs, Indirect Purchaser Plaintiffs, and Defendants.

7. The Defendants previously agreed, and the Court so ordered, that Defendants are to produce their respective class certification experts on dates and at times mutually convenient to the parties, but in any event, during the period between September 6, 2006 and September 14, 2006, inclusive.

B. Motion Practice

1. The Court denied Defendants' Motions to Dismiss on May 26, 2006.

2. Indirect Purchaser Plaintiffs and Direct Purchaser Plaintiffs filed their Motions for Class Certification and Opening Briefs in Support Thereof on May 8, 2006.¹ Pursuant to the Scheduling Order, as amended on June 27, 2006, Defendants have until August 16, 2006 to file responding papers, and Plaintiffs have until October 4, 2006 to file reply papers.

C. Pleadings

1. On July 6, 2006, Defendant Fournier and Defendant Abbott served Answers to Direct Purchaser Class Plaintiffs' First Amended and Consolidated Class Action Complaint.

¹ Indirect Purchaser Plaintiffs simultaneously filed a motion for appointment of class counsel.

2. On July 21, 2006, Defendant Fournier and Defendant Abbott served Answers to: Plaintiff CVS and Rite Aid's Amended Complaint; Plaintiff Walgreens' Amended Complaint; Pacificare's Amended Complaint; End Payor Plaintiffs' Consolidated Class Action Complaint, and American Sales Company's Complaint.

3. On July 31, 2006, Defendant Fournier served an amended answer to Pacificare's Amended Complaint.

/s/ Jeffrey S. Goddess

Jeffrey S. Goddess (Del. Bar No. 630)
Rosenthal, Monhait & Goddess, P.A.
919 Market Street, Suite 1401
P. O. Box 1070
Wilmington, DE 19899-1070
(302) 656-4433
jgoddess@rmgglaw.com
Liaison Counsel for Direct
Purchaser Class

/s/ Mary B. Graham

Mary B. Graham (Del. Bar No. 2256)
Morris, Nichols, Arsht & Tunnell
1201 North Market Street
P. O. Box 1347
Wilmington, DE 19899
(302) 658-9200
mbgefiling@mnat.com
Attorney for Abbott Laboratories

/s/ Elizabeth M. McGeever

Elizabeth M. McGeever (Del. Bar No. 2057)
Prickett Jones & Elliott, P.A.
1310 King Street
P. O. Box 1328
Wilmington, DE 19899
(302) 888-6521
emmcgeeever@prickett.com
Counsel for Walgreen Co., Eckerd
Corporation, The Kroger Co., Maxi Drug,
Inc. d/b/a Brooks Pharmacy, Albertson's,
Inc., Safeway, Inc. and Hy-Vee, Inc.,
CVS Pharmacy, Inc. Rite Aid Corporation,
Rite Aid Hdqtrs. Corp. and American Sales
Company, Inc.

/s/ Frederick L. Cottrell, III

Frederick L. Cottrell, III (Bar No. 2555)
Anne Shea Gaza (Del. Bar No. 4093)
Richards, Layton & Finger
One Rodney Square
Wilmington, DE 19801
(302) 651-7700
cottrell@rlf.com
gaza@rlf.com
Attorneys for Fournier Industrie
et Sante and Laboratories Fournier
S.A.

/s/ A. Zachary Naylor

A. Zachary Naylor (Del. Bar No. 4439)
Chimicles & Tikellis LLP
One Rodney Square
P. O. Box 1035
Wilmington, DE 19899
(302) 656-2500
zacharynaylor@chimicles.com
Liaison Counsel for Indirect Purchaser
Class

/s/ Jonathan L. Parshall

Jonathan L. Parshall (Del. Bar No. 3247)
Murphy, Spadaro & Landon
1011 Centre Road, Suite 210
Wilmington, DE 19805
(302) 472-8100
jonp@msllaw.com
Attorney for Pacificare Health Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2006 I electronically filed the foregoing document using CM/ECF, which will send notification of such filing to all registered participants, including:

Josy W. Ingersoll, Esquire
John W. Shaw, Esquire
Karen Keller, Esquire
Young Conaway Stargatt & Taylor
The Brandywine Building
1000 West Street, 17th Floor
P. O. Box 391
Wilmington, DE 19899-0391

Mary B. Graham, Esquire
Morris Nichols Arsht & Tunnell
1201 North Market Street
P. O. Box 1347
Wilmington, DE 19899

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
Richards Layton & Finger
One Rodney Square
920 North King Street
Wilmington, DE 19801

Mary B. Matterer, Esquire
Morris James Hitchens & Williams
222 Delaware Avenue
10th Floor
P. O. Box 2306
Wilmington, DE 19899

Pamela S. Tikellis, Esquire
Robert J. Kriner, Jr., Esquire
A. Zachary Naylor, Esquire
Chimicles & Tikellis LLP
One Rodney Square
P. O. Box 1035
Wilmington, DE 19899

Jonathan L. Parshall, Esquire
Murphy Spadaro & Landon
1011 Centre Road
Suite 210
Wilmington, DE 19801

Elizabeth M. McGeever, Esquire
Prickett Jones Elliott, P.A.
1310 King Street
P. O. Box 1328
Wilmington, DE 19899

Michael I. Silverman, Esquire
Lynn A. Iannone, Esquire
Silverman & McDonald
1010 N. Bancroft Parkway #22
Wilmington, DE 19805

Patrick Francis Morris, Esquire
Morris & Morris
1105 North Market Street
Suite 803
Wilmington, DE 19801

I hereby certify that on August 16, 2006 I sent by electronic mail the foregoing document to the following non-registered participants:

REPRESENTING DIRECT PURCHASER CLASS
(C.A. No. 05-340):

Bruce E. Gerstein
bgerstein@garwingerstein.com

Barry S. Taus
btaus@garwingerstein.com

Adam M. Steinfeld
asteinfeld@garwingerstein.com

Rimma Neman
rneman@garwingerstein.com

Daniel Berger
danberger@bm.net

Eric L. Cramer
ecramer@bm.net

Peter Kohn
pkohn@bm.net

Neill W. Clark
nclark@bm.net

Linda P. Nussbaum
lnussbaum@cmht.com

Steig D. Olson
solson@cmht.com

David P. Germaine
dgermaine@daarvanek.com

Joseph Vanek
jvanek@daarvanek.com

Stuart Des Roches
stuart@odrlaw.com

Andrew Kelly
akelly@odrlaw.com

Adelaida Ferchmin
aferchmin@odrlaw.com

David P. Smith
dpsmith@psfllp.com

Russell A. Chorush
rchorush@hpcllp.com

Michael F. Heim
mheim@hpcllp.com

REPRESENTING WALGREEN, ECKERD,
KROGER, MAXI, CVS, RITE AID
(C.A. No. 05-340):

Elizabeth M. McGeever
emmcgeever@prickett.com

Scott E. Perwin
sperwin@kennynachwalter.com

Lauren Ravkind
lravkind@kennynachwalter.com

Joseph T. Lukens
jluken@hangle.com

REPRESENTING PACIFICARE
(C.A. No. 05-340):

Jonathan L. Parshall
jonp@msllaw.com

William Christopher Carmody
bcarmody@susmangodfrey.com

John Turner
jturner@susmangodfrey.com

Shawn Rabin
srabin@susmangodfrey.com

Justin Nelson
jnelson@susmangodfrey.com

Ken Zylstra
kzylstra@sbclasslaw.com

Lyle Stamps
lstamps@sbclasslaw.com

Steve Connolly
sconnolly@sbclasslaw.com

Casey Murphy
cmurphy@sbclasslaw.com

Mark Sandman
mms@rawlingsandassociates.com

Jeffrey Swann
js5@rawlingsandassociates.com

REPRESENTING IMPAX
LABORATORIES (C.A. No. 03-120)

Mary Matterer
mmatterer@morrisjames.com

John C. Vetter
jvetter@kenyon.com

Asim Bhansali
abhansali@kvn.com

REPRESENTING INDIRECT PARTY
PLAINTIFFS (C.A. No. 05-360):

Pamela S. Tikellis
Thomas M. Sobol
Patrick E. Cafferty
Jeffery L. Kodroff

Bernard J. Persky
Michael Gottsch
A. Zachary Naylor
Robert Davis
Brian Clobes
Michael Tarringer
Tim Fraser
David Nalven
Greg Matthews
Christopher McDonald
Kellie Safar
Ted Lieberman
Pat Howard
tricolor@chimicles.com

Michael I. Silverman
mike@silverman-mcdonald.psemail.com

Lynn A. Iannone
lynn@silverman-mcdonald.psemail.com

Patrick Francis Morris
pmorris@morrisandmorrislaw.com

REPRESENTING TEVA
PHARMACEUTICALS (C.A. No. 02-1512):

Josy W. Ingersoll
Bruce M. Gagala
Karen E. Keller
Christopher T. Holding
Ken Cohen
Elaine Blais
tricolor@ycst.com

REPRESENTING ABBOTT (ALL CASES):

Mary B. Graham
tricolor@mnat.com

William F. Cavanaugh
wfcavanaugh@pbwt.com

Chad J. Peterman
cjpeterman@pbwt.com

REPRESENTING FOURNIER (ALL CASES):

Frederick L. Cottrell, III
Anne Shea Gaza
Steven S. Sunshine
Matthew P. Hendrickson
Bradley J. Demuth
Maggie DiMoscato
Timothy C. Bickham
tricolor@rlf.com

/s/ Jeffrey S. Goddess

Jeffrey S. Goddess (Del. Bar No. 630)
Jessica Zeldin (Del. Bar No. 3558)
Rosenthal, Monhait & Goddess, P.A.
Suite 1401, 919 Market Street
P. O. Box 1070
Wilmington, DE 19899-1070
(302) 656-4433
jgoddess@rmgglaw.com
jzeldin@rmgglaw.com